

May 8, 2000

Robert Bishop
Assistant Manager
Financial Analysis Division
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, Illinois 762794-9280

Re: April 26, 2000 Questions From Neutral Fact Finder

Dear Mr. Bishop:

On April 26, 2000, the Illinois Commerce Commission Staff circulated a memorandum from Mr. Peter Hoffman, the neutral fact-finder ("NFF") most recently appointed by the Commission. The memorandum followed discussions held on April 11 and 12, 2000, between the NFF, the Illinois Commerce Commission Staff, Illinois electric utilities, and Alternative Retail Electric Suppliers. The April 26 memorandum directs interested parties to deliver responses, by May 5, to two questions presented by the NFF. The questions focus mainly on the authority of the NFF to adjust prices reflected in the contract summaries to comport with "actual" market values at the time the NFF sets the market values. Responses to the questions and replies will be forwarded to the NFF. This letter constitutes the responses of Unicom Energy, Inc. to the April 26 questions.

Question 1.

Does the Act provide the NFF with the ability to adjust the prices reported in the contract summaries to be more reflective of actual market prices and/or peak and off-peak energy costs at the time the NFF determines market values? If yes, provide proposed mechanisms to do so and cite the provisions of the Act that permit the NFF to do so.

Unicom Energy, Inc. supports efforts that allow the NFF to derive market values of power and energy that come as close as possible to the actual traded prices of power and energy. The NFF process is limited, however, by the law. The law simply does not give the NFF the discretionary power to "adjust the prices reported in the contract summaries." Rather, the Act requires that the NFF derive market values of power and energy solely and directly from the contract summaries reported by utilities and retail electric suppliers. See 220 ILCS 5/16-112(e) ("In calculating market values for electric power, the neutral fact-finder shall weight contract prices . . ."); 220 ILCS 5/16-112(f) ("The neutral fact-finder shall base calculations of the market values for electric energy on the energy prices stated in the contracts . . ."). In doing so, however, the NFF may take

into account the "defining characteristics" of each contract which, under Section 112(c) and the Commission's orders, are to be included in the contract summaries. Those characteristics include temporal indicia such as season, peak, and off-peak. Furthermore, for contracts that key energy prices to an index, the NFF must develop a weighted average index, and must calculate market values "using the weighted average index." 220 ILCS 5/16-112(g). In short, the law gives the NFF some discretion in calculating market values, but it limits the source of data to which the NFF may refer to the information reported in the contract summaries. Accordingly, the answer to Question 1 must be no.

Question 2.

If the NFF is permitted to adjust contract prices reported to be more reflective of actual market prices, what information is required and how may the NFF seek and receive such information? Cite the provision or provisions of the Act that permit the NFF to seek and receive such information.

See answer to Question 1.

Sincerely,

Daniel D. McDevitt
Attorney for Unicom Energy, Inc.
cc: Patrick Foster
Service List

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